

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 3546-01  
Bill No.: HB 1415  
Subject: Crimes and Punishment; Criminal Procedure; Governor and Lieutenant Governor  
Type: Original  
Date: May 4, 2010

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Bill Summary: The proposal changes the law regarding clemency in death penalty cases.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
General Revenue	(Unknown)	(Unknown)	(Unknown)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(Unknown)</b>	<b>(Unknown)</b>	<b>(Unknown)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 5 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Office of the Governor** and the **Office of the State Public Defender** assume the proposal would have no fiscal impact on their agencies.

Officials from the **Office of State Courts Administrator** assume the proposed legislation would have no fiscal impact on the courts.

Officials from the **Department of Corrections (DOC)** assume passage of this bill would require a full hearing before the Board of Probation and Parole when a capital punishment (CP) offender seeks a pardon, commutation of sentence or reprieve. The offender would be entitled to assistance of counsel at the hearing and allowed to be present in person. They would also be allowed to adduce testimony and offer evidence at the hearing.

The Board is then required to make a recommendation, having regard to sixteen listed “substantive predicates.” These predicates include issues that are difficult to determine as well as issues that may have already been litigated. Offenders, at this point, would have already exhausted the automatic appeals process they are guaranteed, of which the duration is approximately ten years.

If this bill becomes law, litigation could be generated from offenders whom the Board does not recommend for clemency. Litigation could be in the form of a declaratory judgment action, alleging the Board did not give proper regard to the outlined substantive predicates. It is unknown how many such hearings would be required each year and the staff time and expenses necessary to cover the full hearing, counsel, testimony, findings and records. In summary, passage of this bill would result in an unknown cost for the DOC per each year.

<u>FISCAL IMPACT - State Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
<b>GENERAL REVENUE FUND</b>			
<u>Costs – Department of Corrections</u>			
Increased hearings/litigation costs	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<u><b>(Unknown)</b></u>	<u><b>(Unknown)</b></u>	<u><b>(Unknown)</b></u>

FISCAL IMPACT - Local Government

FY 2011  
(10 Mo.)

FY 2012

FY 2013

\$0

\$0

\$0

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

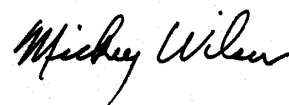
FISCAL DESCRIPTION

The proposed legislation specifies that any person seeking pardon, commutation of sentence, or reprieve from the death penalty will be entitled to the assistance of legal counsel and a hearing before the full Board of Probation and Parole within the Department of Corrections. Factors that the board must consider when granting the application for pardon, commutation of sentence, or reprieve are specified. If the board recommends that a person be pardoned, a sentence of death be commuted, or a reprieve be issued, the person will not be executed unless the Governor issues an order explaining why the board's recommendation is not being followed.

This legislation is not federally mandated, would not duplicate any other program, and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of State Courts Administrator  
Department of Corrections  
Office of the Governor  
Office of the State Public Defender



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May 4, 2010